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Paper No. None

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**NOV 09 2004**

In re Application of	:	<b>OFFICE OF PETITIONS</b>
Er-Xuan Ping	:	
Application No. 10/732,962	:	
Filed: December 11, 2003	:	DECISION ON PETITION UNDER
Attorney Docket No. MIO 0088	:	37 C.F.R. §1.53
V3/40509.280	:	
Title: EVEN NUCLEATION BETWEEN	:	
SILICON AND OXIDE SURFACES FOR	:	
THIN SILICON NITRIDE FILM GROWTH	:	

This is a decision on the petition filed June 30, 2004.

On December 11, 2003, the above-identified application was deposited. On June 22, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application - Filing Date Not Granted (notice)", stating that the application had not been accorded a filing date, and advising applicants that a filing date would be accorded upon the receipt of drawings. The Notice set a two-month period for response.

On June 30, 2004, Petitioner submitted a petition under 37 C.F.R. §1.53. The petition is further accompanied by the petition fee and a copy of 3 sheets of drawings containing Figures 1-3, along with a copy of applicants' postcard receipt acknowledging receipt of "one set of formal drawings (3 pages)" in the United States Patent and Trademark Office (Office) on December 11, 2003. Applicants request that the application, including Figures 1-3, be accorded a filing date of December 11, 2003.

Upon review of the electronic record, the above-mentioned figures have not been located among the application papers. However, the

evidence is convincing that the application papers deposited on December 11, 2003 included 3 sheets of drawings containing Figures 1-3, and each of the 3 sheets containing these figures was subsequently misplaced in the Office.

Therefore, the application, including Figures 1-3, was complete on filing and entitled to a filing date of December 11, 2003 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The notice mailed June 22, 2004 was sent in error, and is hereby **VACATED**. Therefore, no petition fee is necessary. No petition fee is required. If the petitioner wishes to have the \$130.00 petition fee refunded, he should submit a request for refund to the Office of Finance<sup>1</sup>. A copy of this decision should accompany any such request.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence unless a Change of Correspondence Address Form (PTO/SB/122) is submitted for the above-identified application. A blank Change of Correspondence Address Form (PTO/SB/122) may be found at <http://www.uspto.gov/web/forms/sb0122.pdf>.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 11, 2003, using the original application papers filed on that date, as well as Figures 1-3 submitted on June 30, 2004. OIPE will then mail a corrected filing receipt.

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<sup>1</sup> The Refund Branch processes all customer requests for refunds. It generally takes four to six weeks for a request to be processed and a check generated. All requests for refund should be sent to: Mail Stop 16, Director of the US Patent and Trademark Office, PO Box 1450, Alexandria, VA 22313-1450. Office hours are Monday - Friday from 8:30 AM to 5:00 PM. To check the status of a request that has been filed please contact the Refund Branch directly at 703-305-4229.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

A handwritten signature in black ink, appearing to read "Paul Shanowski".

**Paul Shanowski**  
**Senior Attorney**  
**Office of Petitions**  
**United States Patent and Trademark Office**

cc: DINSMORE & SHOHL LLP  
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